

FILED

09 DEC -8 PM 3:26

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:



DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

11	PAUL BASHKIN,	)	Civil No. 08cv1450 WQH(RBB)
12		)	
12	Plaintiff,	)	ORDER GRANTING IN PART AND
13		)	DENYING IN PART DEFENDANTS'
13	v.	)	MOTION TO TERMINATE THE
14		)	DEPOSITION OF HOWARD KLUGE
14	SAN DIEGO COUNTY; HOWARD KLUGE,	)	[DOC. NO. 22], PLAINTIFF'S
15	individually and in his	)	MOTION FOR RECONSIDERATION OF
15	official capacity; BRET	)	ORDER DENYING EX PARTE
16	GARRETT, individually and in	)	APPLICATION FOR AN ORDER
16	his official capacity; DOES 1-	)	EXTENDING TIME TO FILE A
17	100, inclusive,	)	MOTION TO AMEND HIS COMPLAINT
17		)	[DOC. NO. 24], DEFENDANT SAN
18	Defendants.	)	DIEGO COUNTY'S MOTION TO
18		)	COMPEL PLAINTIFF TO RESPOND TO
19		)	INTERROGATORIES; REQUEST FOR
19		)	ATTORNEY'S FEES [DOC. NO. 25],
20		)	AND PLAINTIFF'S MOTION TO
20		)	COMPEL DEFENDANT HOWARD KLUGE
21		)	TO PRODUCE WRITTEN RESPONSES
21		)	AND ORGANIZE DOCUMENTS WITHOUT
22		)	OBJECTION PURSUANT TO
22		)	PLAINTIFF'S REQUEST FOR
23		)	PRODUCTION OF DOCUMENTS;
23		)	REQUEST FOR SANCTIONS [DOC.
24		)	NO. 29]

On December 7, 2009, the Court held a hearing on four  
discovery motions filed by Plaintiff and Defendants. Plaintiff  
Paul Bashkin appeared on his behalf, and the Defendants were

1 represented by James M. Chapin, Senior Deputy County Counsel. For  
2 the reasons stated on the record and as outlined below, the Court  
3 grants in part and denies in part the Plaintiff's and Defendants'  
4 Motions.

5 Defendants' Motion to Terminate the Deposition of Howard Kluge  
6 is Granted in part and Denied in part [doc. no. 22]. Defendants'  
7 request for a protective order preventing any further deposition of  
8 Defendant Howard Kluge is Denied, but the Court limits the  
9 continued deposition to no more than two hours. At the resumed  
10 deposition, Plaintiff is permitted to inquire about Defendant  
11 Kluge's insurance coverage for this action, any documents obtained  
12 by Plaintiff that were not the subject of prior questioning,  
13 Defendant Kluge's knowledge of policies and procedures of the San  
14 Diego County Sheriff's Department regarding investigating and  
15 handling a California Welfare & Institutions Code § 5150 matter, a  
16 claim for trespassing, or other policies and procedures identified  
17 by Bashkin as covered by Plaintiff's request for production number  
18 sixteen and disclosed to defense counsel as outlined below. The  
19 deposition will take place telephonically, assuming there is no  
20 additional expense for conducting it by phone. If there is an  
21 additional expense, the deposition may proceed telephonically if  
22 Defendants pay for any additional charges. The continued  
23 deposition is to be completed no later than January 15, 2010.

24 Bashkin has filed a Motion for Reconsideration of this Court's  
25 September 10, 2009, Order Denying Plaintiff's Ex Parte Application  
26 for an Order Extending Time to File a Motion to Amend His Complaint  
27 [doc. no. 24]. Bashkin has failed to show good cause for granting  
28

1 the relief requested. Accordingly, his Motion for Reconsideration  
2 is Denied.

3 The Court Grants in part and Denies in part Defendant San  
4 Diego County's Motion to Compel Plaintiff to Respond to  
5 Interrogatories [doc. no. 25]. Defendant's Motion to Compel  
6 Plaintiff responses to interrogatories one through three and ten  
7 through thirteen is Granted, but the responsive time frame for  
8 these seven interrogatories is limited to August 8, 2003, through  
9 the present. Defendant's Motion to Compel Plaintiff to respond to  
10 interrogatories four, seven, fourteen, and sixteen is Granted.  
11 Defendant's Motion to Compel Plaintiff to respond to  
12 interrogatories five, eight, and nine is denied, but Plaintiff is  
13 reminded of his duty to supplement his responses pursuant to Rule  
14 26(e) of the Federal Rules of Civil Procedure. Defendant San Diego  
15 County's Motion to Compel Plaintiff to respond to interrogatory six  
16 is Granted, but the time frame is limited to the past ten years.  
17 Defendant's Motion to Compel Plaintiff to respond to interrogatory  
18 fifteen is Granted; Plaintiff is ordered to clarify his response.  
19 Bashkin is ordered to provide his responses to Defendant San Diego  
20 County's Special Interrogatories by no later than December 21,  
21 2009.

22 The Court Grants in part and Denies in part Plaintiff's Motion  
23 to Compel Defendant Howard Kluge to Produce Written Responses and  
24 Organize Documents Without Objection Pursuant to Plaintiff's  
25 Request for Production of Documents [doc. no. 29]. Defendant Kluge  
26 is ordered to respond to Plaintiff's twenty-three requests for  
27 production in writing and produce responsive documents by no later  
28 than December 21, 2009. Certain requests for documents require

1 additional comment. In connection with request number six,  
2 Plaintiff complains that Defendant Kluge has not produced the  
3 "original" photographs of Barona Casino. At the hearing, defense  
4 counsel stated that neither he nor his client has the original  
5 photographs, and duplicates of Defendants' copies have been  
6 produced. That is sufficient.

7 Kluge is to produce documents in his possession, custody and  
8 control that are responsive to requests numbers eight and nine.  
9 The reference to "complaints" in those requests is limited to  
10 complaints alleging excessive force, unlawful restraint, unlawful  
11 search and seizure, and unlawful detention. Kluge is ordered to  
12 produce documents responsive to requests numbers ten and eleven.  
13 For request sixteen, counsel for Defendant has agreed to produce a  
14 copy of San Diego Sheriff's Department policies regarding  
15 investigating and handling a California Welfare & Institutions Code  
16 § 5150 matter, a trespass claim, and any other policies relevant to  
17 this action that Plaintiff identifies to counsel for Defendants by  
18 December 14, 2009.

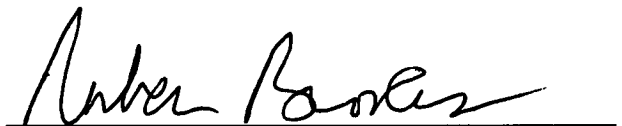
19 In partial response to request for production number eighteen,  
20 by December 21, 2009, Defendant Kluge is ordered to produce a  
21 declaration to Plaintiff, signed under penalty of perjury, listing  
22 Kluge's financial net worth, including his income, assets, and  
23 liabilities. The underlying documents supporting Kluge's  
24 declaration must be brought to the first day of trial and be  
25 available for introduction into evidence. All other documents  
26 responsive to Plaintiff's twenty-three requests for production  
27 shall be produced to Bashkin no later than December 21, 2009. If  
28 any documents are being withheld on the basis of a claim of

1 attorney-client privilege or under the work product doctrine, a  
2 privilege log identifying those documents shall also be produced by  
3 December 21, 2009.

4 The documents produced by Defendants are subject to a  
5 protective order limiting their use and disclosure. The documents  
6 may only be used in connection with this action and shall not be  
7 disclosed to any third party not connected with the prosecution or  
8 defense of this action without the consent of the producing party  
9 or an order of this Court.

10 Each of the parties' requests for sanctions is Denied.  
11 IT IS SO ORDERED.

12  
13 Dated: December 8, 2009



14 Ruben B. Brooks  
15 United States Magistrate Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28